

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

REGONALD D. PHILLIPS,
Plaintiff,

No. C 07-0979 CW (PR)
ORDER OF DISMISSAL

v.

STATE OF CALIFORNIA, et al.,
Defendants.

Plaintiff Regonald D. Phillips, a state prisoner, filed the present pro se civil rights action pursuant to 42 U.S.C. § 1983 alleging constitutional rights violations. He has been granted leave to proceed in forma pauperis.

The Court conducted an initial screening of the complaint pursuant to 28 U.S.C. § 1915A(a). Plaintiff asserted that he has been subjected to continuous violations of his constitutional rights, due to deliberate indifference by prison officials, for the past fifteen years. The Court found that Plaintiff failed to provide any additional facts and that his allegations were not sufficient to state a plausible claim that his constitutional rights were violated. Therefore, the Court dismissed the complaint with leave to amend to cure this pleading deficiency. In amending, Plaintiff was directed to provide enough facts to explain which

1 constitutional rights were violated, in what way and by whom during
2 the past fifteen years. Plaintiff was also directed to allege
3 facts sufficient to show that Defendants' actions rose to the level
4 of constitutional violations. Finally, Plaintiff was directed to
5 show that he exhausted his administrative remedies with respect to
6 the deliberate indifference claims in his complaint before he filed
7 his suit. In the section of the complaint form where Plaintiff was
8 asked to write the names of all Defendants he named the State of
9 California, the CDCR and all CDCR employees. The Court dismissed
10 all claims against the State of California and the CDCR because
11 neither the State nor state agencies can be sued in federal court.
12 The Court found that Plaintiff could not sue any CDCR employees as
13 Defendants without naming and linking them each specifically to his
14 deliberate indifference claims. Therefore, Plaintiff's claims
15 against all CDCR employees were dismissed with leave to amend to
16 name the individually responsible defendants. The Court granted
17 Plaintiff thirty days to file an amended complaint to cure the
18 pleading deficiencies, or to suffer dismissal of the action.

19 Plaintiff subsequently filed an amended complaint. The
20 amended complaint simply reiterates the same vague allegations that
21 were stated in the original complaint, including allegations of
22 "numerous countless conspiracies -- covert and overt --
23 intentional, malicious acts of harm against [his] personal being
24 from 1992 to present date 12-12-2008." (Am. Compl. at 3.) He
25 claims that he has attached a "chronological history of
26 disciplinary intraction [sic] sheet . . . which list[s] all
27 disciplinary C.D.C.R. illegall [sic] actions against [him]" in
28 order "to substantiate [his] claims." (Id.) However, nowhere in

1 his amended complaint does Plaintiff allege facts sufficient to
2 show that the prison officials' actions rose to the level of
3 constitutional violations. While Plaintiff states that he
4 "exhausted all 602 levels," he has failed to explain how he
5 exhausted his administrative remedies with respect to any alleged
6 deliberate indifference claims before he filed suit. Finally,
7 Plaintiff claims that the "Directors of C.D.C.R. and all their
8 subordinates have subjected [him] to false persecution and
9 prosecution as well as the lost [sic] of all [his] personal
10 property and all of [his] legal documents." (Id.) The Court finds
11 that Plaintiff has failed to name the individually responsible
12 defendants and to link them specifically to his deliberate
13 indifference claims.

14 The Court has reviewed Plaintiff's amended complaint and finds
15 that it does not cure the pleading deficiency identified in the
16 Court's Order dismissing the original complaint with leave to
17 amend. Accordingly, Plaintiff's claims are DISMISSED with
18 prejudice and without leave to amend.

19 The Clerk of the Court shall terminate all pending motions and
20 close the file.

21 IT IS SO ORDERED.



22 Dated: 1/13/09

23 CLAUDIA WILKEN
24 UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

REGONALD D PHILLIPS,

Plaintiff,

v.

THE STATE OF CALIF et al,

Defendant.

Case Number: CV07-00979 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 13, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Regonald D. Phillips E-40142
CSP - Corcoran
4A-1L-40
P.O. Box 3476
Corcoran, CA 93212-3476

Dated: January 13, 2009

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk

United States District Court
For the Northern District of California